

## The seal of the Government of Madhya Pradesh is a circular emblem. It features a central shield divided into four quadrants: top-left with a crescent and star, top-right with a conch shell, bottom-left with a bull, and bottom-right with a lion. The shield is flanked by two elephants. Above the shield is a crown-like element. The entire emblem is encircled by a border containing the text 'UNITE WE STAND DIVIDE WE FALL' at the top and 'सत्यमेव जयते' at the bottom. Below the seal, the text 'GOVERNMENT OF MADHYA PRADESH' is written in English, and 'मध्य प्रदेश सरकार' is written in Hindi. At the very bottom, the year 'MDCCCXX' (1920) is inscribed.

No. 14-1206 RS

<sup>1</sup> All references to the CSR are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update.

complaint, discovery response of the petitioner, affidavit, or other evidence admissible under the law. *Id.* The Director filed the affidavit of a custodian of records with his motion. We base our findings of fact on the contents of Clark's complaint and the Director's affidavit.

### **Findings of Fact for Purposes of this Order**

1. The Director issued an assessment of unpaid sales/use tax to Clark. The assessment was sent to Clark by certified mail on May 2, 2014.

2. The assessment is dated May 2, 2014, and states that it will become due and payable 60 days from the assessment date.

3. The assessment contains the following notification:

This assessment is the Final Decision of the Director of Revenue. If you are adversely affected by this decision, you may appeal to the Administrative Hearing Commission. To appeal, you must file a petition with the Administrative Hearing Commission within sixty (60) days after the date this decision was mailed or the date it was delivered, whichever date was earlier. If any such petition is sent by registered mail or certified mail, it will be deemed filed on the date it is mailed. If it is sent by any method other than registered mail or certified mail, it will be deemed filed on the date it is received by the commission as stated in Section 621.050.1, RSMo.

Appeals should be sent to the Administrative Hearing Commission, P.O. Box 1557, Jefferson City, Missouri 65102-1557.

4. Clark filed his appeal on July 15, 2014.

### **Conclusions of Law**

This Commission has jurisdiction over appeals from the Director's final decisions. Section 621.050.<sup>2</sup> However, our jurisdiction comes from the statutes alone, and is bounded by those statutes. *State Bd. of Regis'n for the Healing Arts v. Masters*, 512 S.W.2d 150, 161 (Mo. App., K.C.D. 1974). Section 144.261, which applies to appeals from sales tax assessments, states:

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<sup>2</sup> Statutory references are to RSMo 2000, unless otherwise noted.

Final decisions of the director under the provisions of this chapter are reviewable by the filing of a petition with the administrative hearing commission in the manner provided in section 621.050, RSMo; except that, notwithstanding the provisions of section 621.050, RSMo, to the contrary, **such petition must be filed within sixty days after the mailing or delivery of such decision, whichever is earlier.**

In this case, the Director mailed his final decision to Clark on May 2, 2014. Although notified of his appeal rights, Clark filed his appeal on July 15, 2014 – more than sixty days after May 2, 2014. Clark’s untimely filing deprives us of authority to hear his appeal.

If we have no jurisdiction to hear the appeal, we cannot reach the merits of the case and can only exercise our inherent power to dismiss. *Oberreiter v. Fullbright Trucking*, 24 S.W.3d 727, 729 (Mo. App., E.D. 2000). Accordingly, we grant the Director’s motion.

#### **Summary**

We grant the Director’s motion to dismiss.

SO ORDERED on September 25, 2014.

\s\ Karen A. Winn

KAREN A. WINN  
Commissioner